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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/727,377 | 12/04/2003 | Victor Fuk-Pong Man | 163.1737USU1 | 6930 |
| 23552 | 7590 | 02/02/2006 | EXAMINER | |
| MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903 | | | HARDEE, JOHN R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1751 | |

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/727,377

Applicant(s)

MAN ET AL.

Examiner

John R. Hardee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date (2).
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7, and 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 837,123. See Example 3. Note that the nonionic surfactant contains 40% water, for a total water content of at least 1.6%. Utility of amine oxides is disclosed at p. 4, line 13.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-7 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 837,123. The reference discloses powder detergent compositions comprising an organic surfactant and an encapsulated chlorine source (p. 2, lines 5-6). The powder contains water, but it appears to be dry (p. 2, lines 56-57). The compositions comprise, most preferably, 10-40% of sodium carbonate, and, most preferably, about 5-30% of surfactants (p. 3, lines 28+). Suitable anionics include sulfates and sulfonates. Nonionics, including amine oxides, may be added (p. 4, line 13). The reference does not disclose amounts of amine oxide surfactant with sufficient specificity to constitute anticipation. However, it would have been obvious at the time that the invention was made to include amine oxides in the disclosed compositions in the amounts recited, because the reference teaches that amine oxides are useful in the compositions, a general surfactant content of about 0.1-70% is taught at p. 3, line 36, and combinations of surfactants are taught to be useful as well as exemplified.

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7. Claims 1-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gladfelter et al., US 6,211,129. The reference discloses cleaning concentrates made up of two interlocking shapes which provide a continuous surface for contact with aqueous spray (col. 1, lines 66+). The compositions comprise an alkalinity source, which is present at about 5-60% by weight (col. 5, lines 2+), and sequestrants, which are present in varying amounts depending on the identity of the specific sequestrants used (col. 5, lines 53+). Suitable alkalinity sources include sodium and potassium hydroxide, as well as alkali metal silicates and carbonates. Suitable sequestrants include polyacrylates and phosphonopolycarboxylates. Use of sodium tripolyphosphate is exemplified. Suitable surfactants include alkyl carboxylates, alkyl sulfates and sulfonates, alkylbenzene sulfonates, amine oxides and nonionics (col. 7, lines 5+). Use of 3-59% of surfactant is exemplified. Use of an encapsulated bleach is disclosed at col. 15, lines 40+. The amount of encapsulated bleach is not disclosed. However, it would have been obvious at the time that the invention was made to use bleach in the recited amounts, because discovery of the bleaching-effective amount of bleach to use, where the utility of bleach is taught, amounts to ordinary optimization, and is an obvious expedient.

8. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gladfelter et al., US 6,211,129, in view of EP 837,123. The disclosure of Gladfelter is summarized above. An encapsulated bleach in the form recited in these claims is not disclosed. However, it would have been obvious at the time that the invention was made to incorporate such an encapsulated bleach into the compositions of Gladfelter,

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because Gladfelter teaches the utility of encapsulated bleaches in automatic dishwashing compositions, and the EP teaches the use of such an encapsulated bleach, as discussed above.

9. Any prior art made of record and not relied upon is of interest and is considered pertinent to applicant's disclosure.

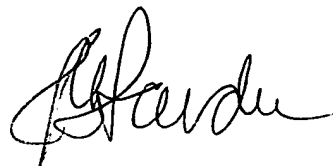
Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (571) 272-1316.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "J. Hardee", with a stylized, cursive script.

John R. Hardee
Primary Examiner
January 26, 2006